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DRAFT REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-NINTH SESSION

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CHAPTER III

Specific issues on which comments would be of particular interest to the Commission

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CHAPTER III

SPECIFIC ISSUES ON WHICH COMMENTS WOULD BE OF PARTICULAR INTEREST TO THE COMMISSION

In response to paragraph 14 of General Assembly resolution 51/160, the Commission identifies the following specific issues for each topic on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work:

(a) Nationality in relation to the succession of States

Comments and observations by Governments would be appreciated on the set of 27 draft articles and a draft preamble on nationality of natural persons in relation to the succession of States, which were provisionally adopted by the Commission on first reading ( ). Governments are also reminded of the request to provide their comments on the practical problems of nationality connected with legal persons in the context of succession of States.

(b) Reservations to treaties

The Commission welcomes comments on the preliminary conclusions adopted on reservations to normative multilateral treaties, including human rights treaties ( ). Monitoring bodies set up by the relevant human rights treaties are also invited to give their comments if they so wish.

(c) State responsibility

The Commission wishes to reiterate its request to Governments for comments and observations on the draft articles adopted at its first reading. Pursuant to General Assembly resolution 51/160, the Secretary-General transmitted in December 1996 a note requesting Governments to submit comments and observations on the subject no later than 1 January 1998. As the Commission will begin the second reading on the draft articles at its next session in April 1998, such comments and observations are essential for the preparation of the Special Rapporteur's report and for the consideration of the Commission.

Comments by Governments on the following issues would be particularly helpful to the Commission:

(i) the treatment of key issues, including "international crimes and international delicts" (Article 19), "countermeasures" (Chapter III), "settlement of disputes" (Part three);

(ii) identification of any areas where more work would be required in the light of the developments since the provisional adoption of the draft article in question;

(iii) identification of any lacuna in the draft articles particularly in light of state practice.

(d) International liability for injurious consequences arising out of acts not prohibited by international law

As the Commission has decided to undertake study under first the title "prevention of transboundary damage from hazardous activities", views by Governments would be very useful to the Commission if they were to comment on:

(i) the approach and content set out in draft articles 4, 6 and 9-19, with commentaries, regarding the principles of prevention and cooperation;

(ii) any other principles or provisions that should be included in this part of the study.

Noting that the Commission has decided to finalize its views on the "international liability" aspect of the topic pending receipt of comments by Governments, the Commission wishes to reiterate its request made in 1996 for comments by Governments, if they have not previously done so, on the issue of international liability in order to assist the Commission on this matter.

(e) Diplomatic protection

Comments by Governments on the proposed outline, and in particular on the following, would greatly assist the Commission:

(a) the scope of the topic as set forth in paragraphs ... to ... of the Report;

(b) who can claim diplomatic protection with respect to whom and against whom;

(c) whether this topic should include protection claimed by international organizations on behalf of their agents;

(d) any other issue which should be included in the proposed outline.

(f) Unilateral Acts of States

The Commission would welcome comments by Governments on, inter alia, the following matters:

(a) the general approach proposed by the working group to deal with this subject;

(b) the scope and content of the study to be undertaken;

(c) the plan of work, and

(d) the final form of the study to be undertaken (whether it should result in a doctrinal study followed by draft articles and commentaries, general conclusions or recommendations, a guideline for the conduct of States, or a combination of these - or other - alternatives).

The Commission would also welcome any background material relevant to the topic which Governments may wish to provide to a Special Rapporteur and the Consultative Group.